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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,914	11/26/2003	William D. Chamlee	D1109/20012	9792

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EXAMINER

JOHNSON, STEPHEN

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,914

Applicant(s)

CHAMLEE, WILLIAM D.

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 2, 6-14, 16-18, 21 and 22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19, 20, 23 and 24 is/are allowed.
- 6) ☒ Claim(s) 1 and 15 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election with traverse of invention II, drawn to a munitions extractor in the reply filed on 8/13/2004 is acknowledged. The traversal is on the several grounds. (1) It is argued that claim 3 (combination claim) does require the particulars of claim 2 (subcombination claim). In response, while this statement is correct, applicant cannot select the particular claims intended for comparison. If any of the claims in the subcombination (see claims 13 and 14 for two examples) contain claim limitations whose particulars are not required by the combination, the restriction is proper and the inventions are distinct. (2) It is argued that the issue of serious burden is not met because the search for the combination and subcombination is the same. This is factually incorrect. The search for the combination is directed primarily to class 86. The search for the combination could be in any of numerous different classes where a compound is extracted via fluid pressure absent an explosive. Further, even if the searches were identical, which is clearly not the case in this instance, it takes considerably more time to review multiple references associated with additional claims for a second invention. In view of the fact that the examiner has only a very limited amount of time to prepare a first action, it is in the best interest of both applicant and the Office that enough time be given the examiner to perform a quality search for each of the different inventions.

The requirement is still deemed proper and is therefore made FINAL.

Claims 3-5, 15, 19-20, and 23-24 read on the elected invention and an action on these claims follows. Claim 1 is included as a linking claim.

Claims 2, 6-14, 16-18, and 21-22 are withdrawn from consideration as being directed to a non-elected invention.

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2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Humphrey.

Humphrey discloses an extractor comprising:

- a) a compound; 28, 30
- b) a casing with dome end; 10, 12, 26
- c) an open end; see figs. 1, 3
- d) a support device; remaining portions of engine
- e) a fluid port; and 20, 16
- f) introduction of fluid through the fluid port. col. 15, lines 20-36

4. Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Cowans.

Cowans discloses an extractor comprising:

- a) a compound; 59
- b) a casing with dome end; 111
- c) an open end; see fig. 1
- d) a support device; remaining portions of engine
- e) a fluid port; and 54
- f) introduction of fluid through the fluid port. para. [0079]

5. Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Winz.

Winz discloses an extractor comprising:

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- a) a compound; col. 4, lines 44-48
- b) a casing with dome end; 28 (top)
- c) an open end; 28 (bottom)
- d) a support device; 16, 18, 58
- e) a fluid port; and 42
- f) introduction of fluid through the fluid port. col. 4, lines 44-48

6. Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kolle et al..

Kolle et al. disclose an extractor comprising:

- a) a compound; 5
- b) a casing with dome end; 13, 11
- c) an open end; see lone fig.
- d) a support device; 1
- e) a fluid port; and 3
- f) introduction of fluid through the fluid port. 4, 2

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight (925) in view of Scherer et al..

Knight (925) discloses an extractor comprising:

- a) a compound (packed explosive); inside 3

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b) a casing with dome end;	3
c) an opposite end;	3 (flat end)
d) a support device;	2
e) a fluid port; and	4
f) introduction of fluid through the fluid port.	page 2, lines 18-42

Knight (925) applies as recited above. However, undisclosed is a flat opposite end of the ammunition casing that is an open end. Scherer et al. teach a flat opposite end of the ammunition casing that is an open end (10, see fig. 1). Applicant is substituting one type of casing for another in an analogous art setting both casing being taught in an environment where the casing are being unloaded. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Scherer et al. to the Knight (925) extractor and have an extractor that extracts an explosive from a different type of ammunition casing.

9. Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 19-20 and 23-24 are allowed.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bots, Knight(924), Ito et al., and JP 6-88700 disclose state of the art extractors.

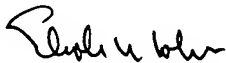
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158.

The examiner can normally be reached on Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be

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reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ